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TAGS: [ECON](#) [EFIN](#) [EFTA](#) [ELAB](#) [ETRD](#) [PGOV](#) [PM](#) [PREL](#) [SNAR](#)
SUBJECT: PANAMA LAUNCHES CONTROVERSIAL FTA MEASURES AMID
UNCERTAINTY

Classified By: AMBASSADOR BARBARA J. STEPHENSON FOR REASONS 1.4 (b) & (d)

SUMMARY

¶1. (C) Encouraged by front-page coverage of U.S. officials noting progress on the U.S.-Panama Free Trade Agreement (FTA) early in the week of May 18, the current (Torrijos) and in-coming (Martinelli) governments of Panama took actions on May 20 designed to pave the way for U.S. Congressional approval of this accord. Specifically, the following steps were taken on May 20: (1) the Torrijos government enacted three labor decrees as mandated by agreement with USTR; and (2) Martinelli's Vice President-elect and FM-designate Juan Carlos Varela released a statement committing Panama to negotiate a Tax Information Exchange Agreement (TIEA) in ¶2009. On May 21, signals from Washington shifted -- most significantly when prominent U.S. legislators released letters opposing the FTA -- and pointed to a delay submitting the FTA to Congress until the Fall. The shifting signals have fueled growing resistance from key domestic constituencies -- especially organized labor, bankers, and lawyers -- and cast doubt on Torrijos, and Martinelli's, ability to complete necessary reforms as planned. End summary.

PROGRESS IN TIME FOR SENATE HEARING

¶2. (C) On May 20, President Torrijos, pursuant to prior agreement with USTR negotiators and fulfilling promises made to President Obama and Vice President Biden, issued three executive decrees on labor. The first prohibits firms from circumventing legitimate unions by entering into collective bargaining agreements with employer orchestrated unions, often referred to as "yellow unions." The second decree further defines and regulates the use of subcontractors, and the third decree places restrictions on the hiring of contract employees under a specific provision of the labor code. In addition, President Torrijos formally inaugurated the "Commission to Defend International Services in Panama," to examine changes to Panama's financial system demanded by the U.S. Congress and the G-20/OECD, specifically regulation

of bearer shares of anonymous corporations and negotiations for a tax information exchange agreement (TIEA). Torrijos appointed Moises Cohen, President of the Panamanian Bankers' Association; Domingo Latorraca, currently at Deloitte Financial Advisory Services and a former Vice Minister of Finance under President Moscoso (representing the Panamanian Chamber of Commerce); Carlos Cordero of the Association of International Lawyers (who shares partnership in his firm with Ambassador-designate to the U.S. Jaime Aleman and former Torrijos Minister of Commerce and Industries Andy Ferrer); and Martha Lopez of the National College of Lawyers, Panama's bar association. President Martinelli appointed Alvaro Aleman (brother of Ambassador-designate to the U.S. Jaime Aleman), also of the Association of International Lawyers.

13. (C) Later on May 20, Vice President-elect Juan Carlos Varela issued a statement that contains a commitment to negotiate a TIEA. Specifically, Varela announced, "We will negotiate during the course of the present year a legal instrument to facilitate the exchange of information related to tax matters." Release of that statement, which Varela couched in an article about working with the United States and appointing Alvaro Aleman to the Commission to Defend International Services in Panama, required coaxing on several occasions by the Ambassador and other USG officials. Both Torrijos, and Martinelli, s actions were spurred in part by front page articles in the Panamanian press quoting USG officials saying they were "working furiously" and pressing the Panamanians for concessions on labor and finance matters to make the FTA presentable to Congress.

THE DAY AFTER

14. (C) On May 22, most of Panama's dailies featured front page stories covering the May 21 Senate Finance Committee Hearing on the Panama FTA. They focused on criticism of the Obama Administration by Senators Baucus and Grassley for not moving faster with this accord. In addition, coverage included the Administration's statement before that Committee that President Obama will outline his vision for U.S. trade policy in the context of a "broader domestic agenda."

15. (C) Against this backdrop, it looks increasingly unlikely that the demoralized, post-election PRD will be able to enact all required labor and bearer shares legislation by June 30 (when the Torrijos administration ends). Fifty-four of the current 74 members of the National Assembly will not return to the chamber on July 1. The PRD presence in the chamber diminished from 40 (of 74) seats currently to 26 (of 71) seats in the new Assembly following the May 3 elections. Thus, the mere act of reconvening the lame duck National Assembly, much less passing all of the attendant legislation tied to the FTA, will be difficult. On May 26, Panamanian labor leaders were quoted in the press as rejecting the labor changes negotiated with USTR. The spokesman for CONATO, Panama's largest umbrella union and former supporter of the FTA, called the U.S. requested modifications a "smoke screen" to enable inclusion of other unwanted changes in the labor code sought by firms.

16. (C) Septel will report Ambassador's May 29 conversation with President Torrijos, in which he undertook to issue all remaining decrees on labor as well as to seek to include labor legislation (not including the provision on the minimum number of workers able to form a union, which requires amending the labor code itself) in an omnibus package he is negotiating.

THE OUTRAGE GROWS

17. (C) Lawyers and bankers continue to publicly criticize bearer share regulation and a TIEA. The Panama Chamber of Commerce officer in charge of the FTA, Georgia Tech-educated

telecom executive, Marco Gateno (whose daughter is an AMCIT), described May 26 forum on OECD transparency requirements sponsored by the well-regarded Panamanian Association of Enterprise Executives (APEDE) as follows: "Members were outraged at the letter signed by Senator Levin, and very few people were responding rationally. I thought I had walked into a SUNTRACS (a radical, anti-democratic union in Panama) meeting. We call Eduardo Morgan (former Ambassador to the U.S. and chief opponent of bearer shares reform and of a TIEA) and his associates 'the Taliban,' but we really need some help here from President Obama. We know the FTA has been pushed off until the Fall, but we have nothing but insults left. This is not going to yield the progress you want."

COMMENT

18. (C) Comment. It should not be overlooked that real progress has been made in the past few weeks - agreement on changes to labor standards and realization by all but the most intransigent Panamanians that changes will come one way or another on bearer shares and a TIEA. Post will continue to press the waning Torrijos Administration to complete as many labor reforms as possible. We judge bearer share reform by the outgoing government to be well nigh impossible, but we will engage the Martinelli team on bearer share regulation as well as a TIEA. We understand Martinelli's government may be open eventually to addressing bearer shares as part of the TIEA process, but Martinelli himself has been clear he will not use his political capital on labor issues. End comment.

STEPHENSON